

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
U.S. ENVIRONMENTAL PROTECTION AGENCY REGIONS 6 AND 7**

I. Purpose

The purpose of this Memorandum of Understanding (MOU) is to establish policy and procedures for a general working agreement between Regions 6 and 7 to create an inter-regional backup system for response support.

II. Background

The National Response Framework (NRF) lays out the structure for how the federal government is organized to support States and communities in catastrophic incidents. The NRF builds upon the National Incident Management System (NIMS), which provides a consistent national template for managing incidents. The Environmental Protection Agency (EPA) established the EPA National Approach to Response (NAR) in June 2003 to complement the government-wide National Response Plan (which later became the NRF) and NIMS. The NAR is a multi-faceted approach to help ensure the efficient and effective use of EPA's resources. An important facet of the NAR is the acknowledgment that an effective response requires participation from the entire Agency, not just those offices traditionally responsible for emergency response activities and that an effective response to nationally significant incidents will require readily available national resources to assist a given Region. This MOU establishes an agreement for backup cross-programmatic support between Regions 6 and 7. In addition, this MOU establishes the agreement for backup emergency response support between Regions 6 and 7 to meet the Core ER standard.

III. Agreement

It is agreed by the signatories of this MOU that, upon request of the other Region, the backup Region will endeavor to assist the requesting Region in cross-regional support. This MOU will be activated during times of resource shortfalls or as deemed necessary and appropriate under the exigencies of a particular response event or situation.

Under this agreement, the signatory Regions can request support in the form of additional staff, cleanup and technical support contractors, and/or EPA owned equipment. This MOU in no way restricts the undersigned Regions from participating in similar activities or arrangements with other Regions, however it is understood that Regions 6 and 7 will give each other priority status for backup purposes.

In addition, Regions 6 and 7 agree to participate in cross-training and exercises during non-emergency situations. Attached is a copy of the current Region 6 and 7 Preparedness Workplan.

IV. Procedure

Response undertaken under this agreement shall be conducted using the principles of the National Incident Management System (NIMS) and shall incorporate incident command system principles. Any Standard Operating Guides (SOG) developed for implementing this agreement shall incorporate NIMS terminology and concepts as appropriate.

The requesting Region shall be responsible for defining the capability requirements for personnel and/or resources, for example: Health and Safety requirements such as Level A capabilities, warranted OSCs, purchase card holders, or certified Incident Management Team positions. The requesting Region will be responsible for providing responding personnel with deployment information such as mobilization points, response structure and contact information.

Emergency Conditions:

Initial notification and requests for cross-regional support should utilize a one-call notification process. Initial notifications will be received via each Region's respective 24-hour regional response line, manned by a phone duty officer, or through the National Response Center (NRC):

Region 6:	1-866-372-7745
Region 7:	1-913-281-0991
NRC:	1-800-424-8802

Initial notification may be from the requesting Region or from other sources such as the Headquarters Emergency Operations Center (HQ EOC) at the Region's request.

Superfund Response Personnel:

Regional Superfund Division Directors have the ultimate authority to approve the use of regional emergency response resources beyond their regional boundaries. The Regional response program supervisor (Removal Manager) or the designated "acting" supervisor has the authority to dispatch emergency response and removal support resources (staff and/or contract resources) in response to a request for cross-regional support.

Non-Superfund Response Personnel:

Superfund Division Directors shall request other resources through the Regional Administrator and the Regional Incident Coordination Team (RICT). Other resources may include resources outside the direct control of the Superfund Division Director and may include assets such as Response Support Corps, water systems response expertise, etc. The Superfund Division Director will notify his respective Regional Administrator whenever a request for such resources has been made.

Non-Emergency Conditions:

Requests for removal site coverage support, participation in cross-training and exercises or other routine or non-emergency situation, generally should be made during business hours between the respective Removal Managers or their designated "acting" supervisors. Each region's respective Removal Manager is responsible for coordinating training and exercises with other regional programs.

V. Programming, Budgeting, Funding, and Reimbursement Arrangements

In mobilizing response resources, contract crossovers may be used if they are determined to be in the best interest of the Government. Any Standard Operating Guides (SOGs) which are developed for cross-over contracting procedures shall be agreed upon by the Regions for use under this MOU.

This MOU is neither a fiscal nor a funding obligation document. However, any endeavor involving contribution of funds will generally be borne by the Region requesting assistance

The Office of Acquisition Management has issued a memorandum (copy attached) which clarifies OSC warrant authority when OSCs are exercising their delegated authority outside of their home Region.

VI. Authorities

Emergency response and removal support under this MOU is undertaken pursuant to the responsibilities vested in the EPA under the following statutory authorities, regulations, and Presidential Directives:

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Re-authorization Act of 1986 (SARA);

The Federal Water Pollution Control Act of 1970 (Clean Water Act), as amended by the Oil Pollution Act of 1990;

The National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300;

Section 9003 (h) of the Solid Waste Disposal Act (SWDA);

The United States-Mexico Joint Contingency Plan (JCP);

The Homeland Security Act of 2002 and Homeland Security Presidential Directive (HSPD) 5, which established the National Response Plan (NRP) and requires the use of the National Incident Management System for responses governed by the NRP;

The Stafford Disaster Relief Act and amendments, and as further defined in the National Response Plan (NRP) Emergency Support Function Annexes;

Presidential Decision Directive (PDD) 39, "US Policy of Counter-terrorism," and PDD 62, "Combating Terrorism";

as well as any other acts, plans or regulation not listed here under which the authority exists for response activities.

Under Section 104 of CERCLA, the EPA has the authority to respond to a release or threatened release of a hazardous substance, pollutant, or contaminant. Under delegation 14-2 the Regional Administrators may re-delegate to designated On Scene Coordinators the authority to determine the need for emergency response and to approve and initiate removal actions costing up to \$250,000 where site conditions constitute an emergency and up to \$50,000 where site conditions do not constitute an emergency. Regions 6 and 7 have redelegated this authority to their designated OSCs through an appropriate delegation (see attached regional delegations). Similarly, pursuant to Section 311(c) of the Clean Water Act, designated OSCs have been delegated the authority to conduct specific response actions involving the discharge or substantial threat of a discharge of oil. Under this MOU, the signatory Regions agree that the OSCs' delegated authority extends to cross-regional emergency responses involving oil and/or CERCLA hazardous substances, pollutants or contaminants.


VII. Effective Date

This MOU will become effective upon signature by the parties and shall remain in effect until termination by any party hereto. Any party may terminate this MOU upon 90 days written notice to the other party. Its provisions and SOGs will be reviewed annually and amended or supplemented as may be agreed upon mutually.

VIII. Other MOUs

This MOU supersedes the original MOU dated February 8, 2001, and the most current dated 2006, for establishing inter-regional backups. This MOU has no effect on any other MOUs under other Agency programs between the undersigned Regions.

IX. Signatories


Samuel Coleman, Director, Superfund Division
EPA Region 6

12/23/08
Date


Cecilia Tapia, Director, Superfund Division
EPA Region 7

12/19/08
Date

Attachments:

- Attachment 1: Regions 6 and 7 Preparedness Workplan
- Attachment 2: OAM Memorandum clarifying OSC warrant authority
- Attachment 3: Regional Delegations Manual, R6-14-2 TN-296 (Region 6)
- Attachment 4: Regional Delegations Manual, R7-14-002 (Region 7)